

REMARKS

The non-final Office Action issued 19 March 2003 has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered. Claims 1 and 8 have been amended. Claims 2, 5, 7-24 have been withdrawn from consideration pursuant to a non-final restriction and election requirement. Accordingly, Applicants request reconsideration of all pending claims.

Claims 1, 3, 4 and 6 stand rejected under 35 U.S.C. § 102 as being anticipated by PCT Publication No. WO 97/49911 published 31 December 1997 to Rembold *et al* ("Rembold '911").

Insofar as the rejection is applicable to amended claim 1, Applicants respectfully traverse this rejection because Rembold '911 fails to teach or suggest the claimed invention as a whole.

Amended claim 1 recites a fuel injector that includes, *inter alia*, a plurality of passages. Each of the plurality of passages has a passage surface extending along a central axis such that each central axis intersects the longitudinal axis. Support for this amendment to claims 1 and 8 is provided by the originally filed application at, for example, page 6, lines 22-30 and shown in Figures 3A, 3B, 6 and 7.

In sharp contrast, Rembold '911 shows in each of Figures 4, 6, and 9 that each of the passages 34 has a central axis (not numbered) offset to the longitudinal axis A by a specified distance such as, for example "d" in Figure 4, "d₁" and "d₂" in Figure 6. Because the central axis of each of the passages 34 is offset instead of intersecting the longitudinal axis, claim 1 is patentable.

Furthermore, U.S. Patent No. 6,027,050 to Rembold et al ("Rembold '050"), which claims priority to the same PCT Publication Number as Rembold '911, states, at column 6, lines 28-32 that "[p]rovision can be made for the fuel jets created by means of fuel channels 34 to collide with one another ..." However, Rembold '050 fails to show or describe that the fuel channels 34 are arranged in the specific manner recited in claim 1 such that each of the central axis of the fuel channels 34 intersect the longitudinal axis A. And absent the benefits of Applicants' disclosure, there is no motivation or suggestion to provide for the claimed invention as a whole, as recited in claims 1 and 8. Accordingly, claim 1 is patentable because Rembold '911 fails to teach or suggest features of the claimed invention as a whole.

Finally, it is noted that the Office Action concluded that the restriction requirement is proper without providing viable evidence, as required by MPEP § 806.05(g), of a materially different apparatus that does not require “a seat disposed at the fuel outlet.” Applicants respectfully reiterate that claim 8 recites the particulars of a fuel injector that generates the claimed spray pattern in a combustion chamber of an internal combustion engine, and therefore the example of a “paint sprayer” (as asserted by the Restriction Requirement dated August 17, 2001) could not be a viable example because it is believed that one of ordinary skill in art would not spray fuel in a combustion chamber of an engine with a paint sprayer. Applicants respectfully request that the Office Action provides a viable example of a materially different apparatus other than a paint sprayer or withdraws the restriction requirement as required by MPEP § 806.05(g). In the absence of a viable example by the Office Action, Applicants respectfully request rejoinder of claims 8-12.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request the entry, reconsideration and reexamination of this application and allowance of the pending claims 1-24. Applicants respectfully invite the Examiner to contact the undersigned at (202) 739-5203 if there are any outstanding issues that can be resolved via a telephone conference.

EXCEPT for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

Respectfully submitted,

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